

S.172

May 5, 1975

CONGRESSIONAL RECORD — HOUSE

PERSONAL EXPLANATION

(Mr. HEINZ asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HEINZ. Mr. Speaker, on April 17, because of official business, I regret that I was unable to respond to rollcall No. 127, for the substitute amendment to the Youth Camp Act. Due to a clerical error, it was indicated that I would have voted "nay;" to clarify the record, I would have voted "aye." In addition, on rollcall No. 128, I would have voted "aye" on passage of H.R. 46, the Youth Camp Safety Act.

Due to official business in my district on April 21, I was not able to cast my vote on rollcall No. 130, highway projects legislation, H.R. 3787. If I had been present I would have voted "aye." Also, on rollcall No. 131, environmental impact statements, I would have voted "aye."

And also, Mr. Speaker, I regret that on April 22, official House business prevented my responding to rollcall No. 133, on passage of the Small Business Relief Act. If I had been present, I would have voted "aye." And on April 23, also because of official business, I was not present to cast my vote on rollcall No. 136. If I had been present, I would have voted "nay."

RELATING TO PER DIEM AND MILEAGE EXPENSES OF GOVERNMENT EMPLOYEES

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 172) to revise certain provisions of title 5, United States Code, relating to per diem and mileage expenses of Government employees, and for other purposes, with a Senate amendment to the House amendment, and agree to the Senate amendment to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment, as follows:

Page 7, of the House engrossed amendment, after the matter following line 15, insert:

Sec. 8. The seventh paragraph under the heading "ADMINISTRATIVE PROVISIONS" in the Senate appropriation in the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 68b), is amended by striking out "\$25" and "\$40" and inserting in lieu thereof "\$35" and "\$50", respectively.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HORTON. Mr. Speaker, reserving the right to object, and I shall not object, I wish to express my support for this unanimous-consent request to accept the Senate amendment and pass S. 172, as amended.

An objection was raised to accepting this Senate amendment to the House amendment to S. 172 when this same unanimous-consent request was made last Thursday, May 1. As Chairman Brooks and I pointed out at that time, the Senate has accepted the House bill in its entirety and has asked that we, as a matter of comity, raise the rate of per diem for Senate employees to the rate applicable to House employees and the rates listed in this bill for executive branch employees.

We also made the point that the Senate amendment does not deal with the provisions in the Senate bill as passed by the Senate which would have modified the authorization for Senators and Senate personal staffs to receive per diem. It only changes the rate of per diem for those presently authorized per diem under existing law and Senate rules.

The gentlemen who objected to the motion to accept the Senate amendment have been presented with a detailed memorandum outlining why the concerns they expressed about this amendment were not valid. I hope today they will consent to this unanimous-consent request.

I am personally concerned that this very important legislation be delayed no longer. It has the full support of the Administration and the Federal employee unions. The Senate is accepting in its entirety the House bill and they agreed not to press provisions in their bill which had been of concern to the House previously. I urge my colleagues to agree to this unanimous-consent request.

Mr. Speaker, I withdraw my reservation of objection.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman.

(Mr. BAUMAN asked and was given permission to extend his remarks at this point in the Record, and to include extraneous matter.)

Mr. BAUMAN. I will just say to the gentleman that his description is accurate. I have had the chance over the weekend to examine this memorandum, and I have no objection to the consideration of the Senate amendment at this time. I appreciate the courtesy of the gentleman's staff in providing me with this information.

The memorandum is as follows:

MEMORANDUM FOR THE RECORD RE S. 172  
Questions were raised on the floor concerning the Senate amendment to the House amendment to S. 172, the Travel Expense Amendments Act of 1975. Congressmen Bauman and Frenzel inquired whether the change proposed in section 62(b) of title 2 of the United States Code would permit Senators to receive per diem for travel to their home states when not on committee business.

As was explained on the House floor by Chairman Brooks and Ranking Minority Member Horton, the Senate amendment does not in any way change the authorization for per diem payments to Senators or their personal staffs. Senators, like House Members, are authorized per diem when they travel on official business, such as on committee business or an appointment by the President of the Senate. They are not authorized under existing law or regulation, nor by this amendment, to receive per diem when traveling for reasons relating to their representation of a State or reasons not connected with the official business of the Senate. The amendment only changes the rate of per diem allowed Senators and Senate employees traveling on official business and authorized to receive per diem under existing law and regulations.

The Senate amendment changes the rate of per diem in section 68(b) of title 2, United States Code. This section in chapter 4 of title 2, which deals with officers and employees of the Senate and House of Repre-

sentatives, sets the rate of per diem and subsistence expenses in exactly the same way we set the rates of per diem for executive branch employees. Existing law authorizes per diem be paid at \$25 a day except that (1) higher rates may be established by the Senate Committee on Rules and Administration for travel beyond the limits of the continental United States, and (2) in accordance with regulations prescribed by the Committee on Rules and Administration in the Senate, reimbursement for such expenses may be made on an actual expense basis not to exceed \$40 per day in the case of travel within the continental limits of the United States. The amendment would change the figure \$25 to \$35 and the \$40 to \$50. By way of comparison, Members may wish to look at the similar wording in section 3 of H.R. 4834 as it was reported by the Committee on Government Operations and passed by the House on April 21, 1975. (See page H2990 in the CONGRESSIONAL RECORD.) The Senate has accepted in its entirety the language of this House-passed bill so this is also now section 3 of S. 172 which is before us.

The Committee on Rules and Administration in the Senate is given authority to make regulations in the same way that existing law gives such authority to the Committee on Administration for House employees and the Administrator of General Services for executive branch employees. Such flexibility is needed so that regulations may cover a number of situations which may develop in which there would be some question as to how much per diem ought to be authorized within the rate limit set by law. For example, some provision must be made for per diem payments when an employee is on travel status for only part of the day. Of course, this flexibility must be exercised within limitations otherwise imposed by law.

Travel allowances for Senators traveling for reasons relating to their representation of a State and not related to the official business of the Senate are covered by section 58 of title 2 which is found in chapter 3 dealing with compensation of members and their personal staffs. Subsection (a) (8) provides that Senators should be reimbursed only for actual transportation expenses and not per diem, and that personal staffs of Senators shall be reimbursed only for actual transportation expenses and not per diem in accord with subsection (e) of section 58. Subsection (e) defines for what trips a personal employee may be reimbursed actual transportation expenses.

To emphasize the point, Senators and personal staffs traveling for reasons relating to their representation of a State and not related to the official business of the Senate are eligible only for reimbursement for transportation expenses and not for per diem under existing law. There is nothing in the Senate amendment to the House amendment to S. 172 which would modify the authorization for travel expenses or provide per diem for Senators or personal staffs for such travel.

The concern of the gentlemen stems from provisions found in S. 172 as first introduced in the Senate. As originally introduced, both subsections (a) (8) and (e) of section 58 of title 2 were amended. The Senate Government Operations Committee in reporting the bill deleted the amendment to section (a) (8) and the managers of the bill in the Senate have agreed to delete the reference to subsection (e) as part of an agreement with the House managers reached in an attempt to speed consideration of the bill. Again for emphasis, the earlier Senate amendments to section 58 of title 2 dealing with Senate and personal staff reimbursement for transportation expenses and per diem have been dropped and are no longer included in any way in the language of S. 172 being considered now.

I might add by way of comparison that

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whereas the Senators and their personal staff are prohibited by law from receiving per diem, House Members and personal staffs are not so prohibited by law, Section 57 of title 2 authorized the Committee on House Administration to fix and adjust from time to time by order of the Committee amounts of allowances (including the terms, conditions, and other provisions pertaining to those allowances) for travel and mileage to and from Congressional districts represented. In other words, Members of the House and personal staffs are not prohibited by law as are Senators and their personal staffs from receiving per diem when traveling to their home districts.

In conclusion, then, there is nothing in the Senate amendment to the House amendment to S. 172 which would authorize per diem allowances for Senators and for their personal staffs traveling to home states on other than official Senate business, nor in any way change the authorization for per diem or transportation expenses, other than the rate at which it is paid. The rate is changed from \$25 to \$35 a day and from \$40 to \$50 a day when actual expenses are reimbursed.

(Mr. BROOKS asked and was given permission to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, the amendment added by the Senate would change existing law to this extent only:

Senators and Senate employees traveling on official business of the Senate and its committees—not personal senatorial business—are presently authorized to be reimbursed for per diem and subsistence. The rates of that reimbursement have been codified in section 68(b) of title 2 of the United States Code. The most recent rates were established in the Travel Expenses Act passed in 1969.

The Senate amendment now pending simply changes those 1969 rates to bring them into line with the rates that would be applicable to executive and judicial branch travel as a result of passage of this bill. The maximum rate for per diem would be set at \$35 per day for ordinary travel and for actual expenses up to \$50 per day under unusual circumstances, subject to regulation by the Senate Committee on Rules and Administration. This amendment does nothing to expand the entitlement of Senators or Senate employees to per diem expenses. It simply brings the rate of reimbursement for persons already entitled to per diem into line with the rest of the Government.

There were four principal differences between the House bill (H.R. 4834) and S. 172, as it originally passed the Senate. The Senate has receded on three of those differences and we are considering only one. I believe we should accept this provision because it is completely within the scope and policy of the House bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Senate amendment to the House amendment was agreed to.

A motion to reconsider was laid on the table.

#### ANNOUNCEMENT OF THE DEATH OF AMBASSADOR KENNETH KEATING

Mr. HORTON. Mr. Speaker, I have just received a telephone message that deeply upset me. I should like to inform my col-

leagues in the House that I have just received word from my office that a very close personal friend of mine, and my predecessor in the House, Ambassador Kenneth Keating has just died.

Ambassador Keating served in this House for many years and represented the congressional district that I now represent. Many people strive to make a significant contribution in one field of endeavor during their lives. Ken Keating's field was leadership and humanity. He excelled as a lawyer, as a Congressman and Senator, as a jurist, and at the very hour of his death, as a statesman and diplomat.

Fated to serve as Ambassador to India during some of the most difficult days in South Asian history, and as Ambassador to Israel during a dynamic period of conflict and change in the Middle East—these were symbolic of Ken Keating's nature. He could always be found where the action was, and could be counted on for contributing compassion and civility along with incisiveness to the resolution of conflicts and problems.

I am certain that the people of Monroe and Wayne Counties, his former congressional district, will miss him. Our State will miss him, and our Nation will remember him as one of its greatest.

His passing will grieve many in this House who have served with him.

#### CALL OF THE HOUSE

Mr. MONTGOMERY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 174]

Addabbo	Hanley	O'Neill
Ambro	Harrington	Pattison, N.Y.
Andrews, N.C.	Harsha	Pressler
Armstrong	Hastings	Pritchard
Ashley	Hayes, Ind.	Rangel
Aspin	Hébert	Rhodes
Badillo	Helstoski	Rinaldo
Barrett	Hinshaw	Risenhoover
Blaggi	Jarman	Roncalio
Boggs	Jenrette	Ryan
Boland	Johnson, Colo.	Scheuer
Bowen	Jones, Okla.	Shriver
Breaux	Landrum	Smith, Nebr.
Brodhead	Lent	Solarz
Burke, Calif.	McEwen	Stephens
Burton, John	McKinney	Stuckey
Chisholm	Macdonald	Sullivan
Conlan	Madden	Symington
Conyers	Madigan	Teague
D'Amours	Mann	Thompson
Davis	Martin	Thornton
Delaney	Mathis	Udall
Derrick	Matsunaga	Walsh
Derwinski	Melcher	Waxman
Diggs	Milford	Weaver
Duncan, Oreg.	Mills	Wilson
Early	Mink	Charles H., Calif.
Esch	Mollohan	Charles, Tex.
Eshleman	Moore	Wylder
Foley	Moorhead, Pa.	Yatron
Ford, Mich.	Mosher	Young, Fla.
Frey	Mottl	Young, Ga.
Fulton	Nix	Zeferetti
Goldwater	Obey	
Gonzalez	O'Brien	

The SPEAKER. On this rollcall 330 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further pro-

ceedings under the call were dispensed with.

#### TIME TO DEPOSE KING CAUCUS

Mr. FRENZEL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, today's Congressional Quarterly indicates that there is substantial objection by Democrats to the caucus rule which permits King Caucus to bind Members on House floor votes. I understand that the Democrat Study Group's Executive Committee has recommended repeal of this offensive rule, rule R8.

As chairman of the House Republican Task Force on Reform which made a similar recommendation way back in December of last year, I congratulate the DSG on its conversion and express the hope that the entire caucus will suddenly become similarly enlightened.

Unfortunately, repeal of R8 would be mostly cosmetic. Absent R8, King Caucus could still bind Democrat Members in committee votes. If a Member is forced by a political group—and King Caucus is only a political group—to vote against what he or she thinks is right, what difference does it make whether the vote is on the floor or in committee?

Restricting the unit rule to committee does not make it right. When a Member accepts the domination of King Caucus on any vote, the people we represent are hoodwinked and insulted. How can any Member here explain the hypocrisy of a vote against a bill on the floor after voting for it in committee?

Nor should we be deluded that King Caucus is only interested in "procedural matters." Procedural votes, particularly on rules, have a greater effect on the substance of any bill than most amendments. A closed rule determines substance. An amendment made in order by King Caucus and forced through the Rules Committee is assured of passage.

So, let no Democrat here believe that the simple repeal of rule R8 will still the growing criticism of King Caucus. A political group may use its caucus for anything it wishes, but if King Caucus is a tyrant—and he surely is—that is how he will be identified.

And, how about secrecy? The tokenism of possible repeal of R8 does not reduce the need to open up the workings of King Caucus' court to the public. The exercise of the unit rule in any form demands public scrutiny.

The Republican Conference has adopted a standard of openness. Is the glare of sunlight too strong for King Caucus?

#### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule 27, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule 15.

After all motions to suspend the rules have been entertained and debated and